UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	No. 12 CR 94
v.	)	Judge Charles R. Norgle, Sr.
	)	
MICHAEL VILLAGRAN	)	

GOVERNMENT'S RESPONSE TO DEFENDANT's MOTION FOR A COMPETENCY HEARING

The defendant has moved for a competency hearing pursuant to Title 18, United States Code, Section 4241. In support of this motion, the defendant has provided a summary of the psychiatric examination performed at the Court's request by the staff psychologist at the Metropolitan Correctional Center ("MCC and also referenced various statements made by the defendant as well as information gleaned from the defendant's family.

The district court is required to grant a motion for a hearing to determine the mental competency of a defendant "if there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetency to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense." 18 U.S.C. § 4242(a). On May 18, 2012, this Court issued an order for a psychiatric evaluation of the defendant, pursuant to Title 18, United States Code, Section 4241. Subsequently, the defendant was designated to the MCC for evaluation and treatment. In a report dated July 16, 2012, the evaluating psychologist, Dr. David Szyhowski, found that although the defendant "exhibits symptoms consistent with an antisocial personality," the defendant "does not appear to be suffering from any severe mental disease or defect that has impacted his ability to understand the legal proceedings and to properly assist his counsel. His behaviors related to his personality are within his volitional control and are not likely to respond to ongoing treatment." Psychiatric Report at 7. According to Dr. Szyhowski, he was able to reach this conclusion despite the fact that the defendant had declined to be examined with the "standardized instruments relating to competence abilities[because] his responses to th[e] examiner's questions and his observable behavior provided information relevant to an assessment of his competency related abilities." *Id*. at 4.

In his present motion, the defendant does not assert any facts that contradict the findings contained in the psychiatrist's report but merely references statements from Candy L. Rendon, defendant's common-law wife indicating that the defendant may have suffered a head injury as a child and her belief that he may have been the victim of abuse. In addition, the defendant also references the fact that a neglect case was filed against the defendant's mother (94 J 32) and that for some period of time the defendant was a ward of the Illinois Department of Children and Family Services. These facts fall short of asserting that the conclusions of Dr. Szyhowski's report, that the defendant was competent to proceed in the current criminal case, are incorrect. The government has no objection if the defendant would like a further evidentiary hearing to permit cross-examination of Dr. Szyhowski or to present any further evidence that he is able to obtain.

The government similarly has no objection to the granting of subpoena powers to the defendant to request the psychological examinations that were prepared in connection with defendant's felony conviction for Aggravated Battery (09 CF 2633) and records related to the neglect case filed against the defendant's mother. The government would respectfully request, however, that the response date be scheduled at least two weeks before the date of the competency hearing and that any responses to these subpoenas be promptly shared with the government.

Conclusion

For the reasons stated, the government respectfully states that it has no objection to the Court granting defendant's motion for a competency hearing and granting the defendant subpoena powers to obtain the reports he seeks.

Respectfully submitted,

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